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Human Rights Committee

List of issues in relation to the fifth periodic report of the Sudan

Addendum

Replies of the Sudan to the list of issues*

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Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Article 27, paragraph of the 2005 Interim Constitution of the Republic of the Sudan states that all of the human rights instruments which the Sudan has ratified are an integral part of the Bill of Rights. Article 48 of the Constitution provides that "no derogation from the rights and freedoms enshrined in this Bill shall be made. The Bill of Rights shall be upheld, protected and applied by the Constitutional Court and other competent courts; the Human Rights Commission shall monitor its application in the State pursuant to article 142 herein". This means that the provisions of the Bill of Rights are applied directly by the courts and do not need to be incorporated into separate legislation. For example, in the legal precedent, *Adil Bar'i Ramadan v. Ministry of the Interior*,[1] the appellant filed an appeal with the Court of Administrative Appeals challenging the decision of the Minister of the Interior to reject the appellant's request for Sudanese citizenship. Although he was the child of a Sudanese mother, the appellant's Sudanese citizenship had been revoked because he was considered a South Sudanese citizen based on his father's nationality. The trial court rejected his appeal. The appellant then appealed against the trial court decision before the National Supreme Court, which reversed the trial court's decision and ordered the Minister of the Interior to grant the appellant Sudanese nationality immediately on the basis of his mother's nationality. The Supreme Court based its decision on article 7, paragraph 2 of the Constitution, which provides that "[e]very person born to a Sudanese mother or father shall have an inalienable right to enjoy Sudanese nationality and citizenship." The Supreme Court also cited a Constitutional Court ruling on a constitutional appeal which involved similar facts and had been brought by a number of appellants.[2]

2. Although the provisions of the Islamic sharia as applied in the country are not fundamentally incompatible with the Covenant, certain applications of the law and how certain interpretations of texts and provisions might sometimes give that impression. Judicial institutions, particularly the Constitutional Court, are working to rectify this situation. For example, debate has raged over whether the death penalty may be applied to an offender who has reached puberty or whether the offender must be at least 18 years of age, as provided in article 6, paragraph 5 of the Covenant and article 37 (a) of the Convention on the Rights of the Child, read with article 1 of that Convention. Constitutional Court rulings in several cases of this nature contain detailed arguments on the merits and causes.[3] In the appealed cases, the Court has rescinded the death penalty and ruled that a child is any person under the age of 18, as provided for in the Covenant, the Convention on the Rights of the Child and the Sudanese Children's Act (2010).

3. The legislative, executive and judicial institutions of the State have shown a growing interest in raising awareness of the various human rights instruments, particularly the Covenant. Human rights principles have been introduced into the curricula of military, police and security colleges and in schools, and training courses on human rights are offered at law enforcement agencies with input from partners and stakeholders. The Advisory Council on Human Rights (a national mechanism for coordination among State bodies responsible for the promotion and protection of human rights that deals with reporting and follow-up) is working to foster a culture of human rights. The Council's four-year plan for the 2017–2020 period includes 30 workshops to be held each year that will promote a human rights culture in the various States of the Sudan. In addition, the Council takes part in celebrations to mark human rights days both globally and regionally, and engages with stakeholders and other partners. The National Human Rights Commission is also active in such events. With respect to the Optional Protocol to the Convention, during the twenty-fifth session of the universal periodic review mechanism in May 2016, the Sudan took note of the recommendation that it ratify the Protocol and has approved the recommendations calling for consideration of ratification. We emphasize that the death

[1] Reconsideration of administrative appeal No. 233 (2017), the National Supreme Court.

[2] Constitutional case No. 153 (2015), Constitutional Court.

[3] See, for example, Constitutional Case No. 18 (2005) (*Najm al-Din Qasam al-Sayyid v. Government of the Sudan*) and Constitutional Case No. 8 (2008) (*Kamal Hasan v. Government of the Sudan*).

penalty has been applied in only a very limited number of cases and with due attention paid to article 6 of the Covenant.

4. Article 142 of the 2005 Interim Constitution provides for the establishment of a National Human Rights Commission composed of 15 independent, competent, non-partisan and impartial members. Their appointment shall be representative and they shall be independent in their decision-making. The National Human Rights Commission Act (2009) stipulates as additional membership requirements that candidates must demonstrate an interest in human rights and that either the President or Vice-President of the Commission must be a woman. The Commission's membership was appointed in 2012 and again in 2018. The Act sets the jurisdiction and powers of the Commission, which include the following: protecting, promoting and publicizing human rights; monitoring the implementation of the rights and freedoms contained in the Constitution's Bill of Rights; raising awareness of human rights and the need to respect and apply them in all areas; providing recommendations to the Government on any subject related to human rights, whether at the request of the Government or on its own initiative; investigating complaints received from individuals or other parties, taking necessary measures under the Act or any other law and advising the parties on appropriate remedies; communicating with the competent authorities with regard to human rights violations and requesting that bring an end to those violations; harmonizing national human rights legislation and practices; drafting annual reports on the human rights situation in the Sudan and forging close relationships with organizations active in the area of human rights, both inside the Sudan and abroad.

5. Once its financial and human resources have been allocated, the Commission carries out its tasks in a regular fashion. It has been given observer status by the African Commission on Human and People's Rights and the Arab Human Rights Commission. The Commission takes part in international and regional human rights forums and produces shadow reports in response to the periodic State reports drafted pursuant to human rights instruments. The Commission is currently preparing the annual draft report on the human rights situation in the Sudan, which was delayed for reasons related to technical support and capacity-building. The Commission has forged partnerships with a number of stakeholders and partners in order to strengthen its role and build capacities. It has established a centralized complaint database at the central Government level and in the States.

6. The State reform programme was launched in January 2014 at the initiative of the President of the Republic. It is a comprehensive reform programme covering all aspects of public life and aims to help the country emerge from a period of weak growth so that it can realize its potential. The process includes reform of political life and the country's legal, judicial and security frameworks. It incorporates such components as economic reform, civil service reform and human resource development, legislative and judicial reform, foreign relations reform and media reform. In April 2015, the mechanisms responsible for implementing the programme adopted decisions that addressed all target areas and that were approved by the Cabinet. The following are several of the 52 decisions and recommendations aimed at legislative and judicial reform: creating a constitutional drafting mechanism; drafting a constitution that would control, regulate and achieve balanced development and political and economic stability; implementing recommendations to amend legislation such as the National Security Act (2010), the Code of Criminal Procedure (1991), the Code of Civil Procedure (1983), the Constitutional Court Act (2005), the Children's Act (2010) and the Public Elections Act (2008); and the enactment of a law to establish a public prosecutor's office independent of the Ministry of Justice.

7. Other decisions and recommendations related to the legislative and judicial component include expedited hearings for cases on basic public rights and freedoms; promoting the office of the ombudsperson and expanding its purview; simplifying litigation procedures and enhancing the judicial work environment; training all staff of judicial institutions, workers in the legal justice field and law school graduates; ensuring the financial and administrative independence of the Constitutional Court; and strengthening policies to expand the rule of law, provide prompt remedies and raise awareness of the law. The State reform programme has led to a more extensive process, namely, the

comprehensive national dialogue referenced in paragraphs 11–14 of the fifth periodic report submitted by the Sudan (CCPR/C/SDN/5).

8. The amendments made to the Interim Constitution in December 2016[4] were intended to lay the foundation to implement the outcomes of the comprehensive national dialogue. One example was the establishment of the post of National Prime Minister and the definition of the duties associated with the post. Another was the formulation of interim provisions pertaining to the Government of National Accord formed at the recommendation of the national dialogue, including the means for its formation, its duties, and Parliament's oversight powers. Also included were interim provisions related to the national legislature (the National Assembly and Council of States) and the State legislatures, which sought to expand representation in accordance with the outcomes of the national dialogue. Furthermore, the amendments provide for the separation of the Office of the Public Prosecutor from the Ministry of Justice (in order to protect the former's independence) and the creation of the post of public prosecutor. These amendments do not conflict with the obligations of the Sudan under the Covenant; rather, they enhance and strengthen their fulfilment.

9. Amendments recommended by the legal review committees to the Criminal Code, the Code of Criminal Procedure, the Evidentiary Act and the Code of Civil Procedure have been approved by the Cabinet and submitted to the National Assembly, where they are undergoing the various stages of the review process. The legal review committees were formed with due attention to breadth of representation and diversity. Their members therefore included lawyers, university professors, representatives of civil society organizations, current and former judges and legal advisers at the Ministry of Justice and the Office of the Public Prosecutor.

State of emergency (art. 4)

10. On 30 December 2017, a six-month state of emergency was declared in the States of North Kordofan and Kassala. The decision was put to the national legislature (the National Assembly and the Council of States), where it was discussed and adopted on 8 January 2018. The state of emergency was set to expire on 30 June 2018 in accordance with article 212 (b) of the Constitution, which stipulates that emergency measures shall end with the lapse of the duration approved by the national legislature. All requirements for a state of emergency, as contained in articles 210 and 211 of the Constitution and article 4 of the Emergency and Protection of Public Safety Act (1997), were observed. The state of emergency was imposed on those two States as a precautionary measure and was not arbitrary. It was necessitated by the Government's campaign to collect weapons posing a threat to public safety and society, as well as to strengthen efforts to combat trafficking in persons, especially in Kassala State on the country's eastern border. With respect to the state of emergency that has been in place in Darfur since the beginning of 2015, a visitor to those regions would not guess that they are under a state of emergency, as life continues normally in all respects. Even the special emergency courts, which the law stipulates may be set up pursuant to an emergency order, have not been established. Judicial prosecutions, trials conducted by the public prosecution and ordinary courts apply the provisions of the Criminal Code and ordinary procedure.

11. Article 211 (a) of the Interim Constitution is consistent with the reference in article 4 (2) of the Covenant to articles 7, 11, 15, 16 and 18. It reads:

> "The President of the Republic ... may, during the state of emergency, take, by virtue of law or exceptional order, any measures that shall not derogate from the provisions of this Constitution ... except as may be provided herein:
>
> "(a) To suspend part of the Bill of Rights. However, there shall be no infringement on the right to life [article 6 of the Covenant], freedom from slavery [article 8 of the Covenant], freedom from torture [article 7 of the Covenant], the right of non-discrimination on the basis of race, sex, religious creed [articles 12, 18

[4] Mentioned in 3 (a) of the list of issues of October 2016, corrigendum December 2016.

and 26 of the Covenant], the right to litigation [article 16 of the Covenant] or the right to a fair trial [articles 11, 15 and 16 of the Covenant]".

Non-discrimination and equality (arts. 2, 3, 6, 7, 17, 24 and 26)

12. In April 2017 the Legislature approved constitutional amendments that were drafted pursuant to the outcomes of the comprehensive national dialogue. Amendments were made to 13 articles, of which one (art. 15) was contained in the section entitled "Guiding principles and directives", eight were contained in the Bill of Rights (arts. 28, 29, 30, 31, 37, 38, 39 and 40), and four were contained in other sections (arts. 121, 129 and 179 (a)):

- Article 15 (on marriage, welfare and the family): Marriage must be consensual and contracted by parties that have reached the age of majority established by law. The amendment adds the following phrase: "family matters shall be managed according to the religion of the parties, or, if they do not have a religion, according to their customs".
- Article 28 (the right to life): The new wording is more expansive in terms of the guarantees of this right.[5]
- Article 29 (the right to liberty): The article contains a more precise treatment of restrictions on the right to liberty.[6]
- Article 30 (slavery and forced labour): In the context of prohibiting the practice, the phrase "trafficking in slaves" has been replaced with the phrase "trafficking in persons in all its forms". The amendment also adds the provision that no one may be detained except by law.
- Article 31 (equality): A paragraph has been added to the same article, according to which all people have an equal right to occupy elected posts or posts in public service; likewise, they have equal rights in judicial proceedings and are equally entitled to transact judicial, legal or general affairs, without discrimination.
- Article 37 (privacy): The concept of privacy has been expanded. In addition to inviolability of the home and of communication, the following contexts are now covered: "confidential conversations with others" as well as various forms of communication (audiovisual and personal letter). The phrase "except by law" in the article has been replaced with "save by order of the courts, by a ruling of the public prosecutor ..." in the context of exceptions to the right.
- Article 38 (freedom of belief and worship): The words "in accordance with the requirements of the law and public order" have been replaced with "as regulated by law" in the context of the restrictions on this right.
- Article 39 (freedom of expression and information): Paragraph 1 of this article was reformulated to more clearly reflect the scope and guarantees of this right. Furthermore, requirements were set for any law that places restrictions on this right.[7]
- Article 40 (freedom of assembly and association): The wording of the article was reformulated to require transparency and impartiality in the establishment of political parties, trade unions and associations. It requires membership to be open and non-discriminatory and requires leadership and institutions to be democratically elected.

[5] "Every individual has the right to personal safety and freedom in life. No one may be deprived of that inherent right to life except pursuant to a conviction issued in a final legal judgment."

[6] "Every individual has the right to freedom and security. No one may be arrested or detained — and thereby denied the right to liberty — save according to provisions laid down in the law."

[7] "All citizens shall have the right to free expression and to influence public opinion through the media, public discourse, and written or audiovisual materials; to take part in demonstrations and to disseminate their views as regulated by law and in a manner that balances freedom of expression with the protection of the public from libel and slander, and that balances protection of social and moral progress and the right to demonstrate."

- The amendments to articles 121 and 129 are purely administrative in nature and concern the appointment of judges to the Constitutional Court in light of the secession of South Sudan. The "National Judicial Service Commission" replaces the "Higher Judiciary Council".
- Article 151 (The National Intelligence and Security Service): The 2017 amendment reinstates a paragraph that had been removed in the constitutional amendments of 2015, which provides that "the National Intelligence and Security Service is a professional service whose mission is to collect, analyse and classify information and submit that information to relevant agencies". The paragraph that had provided for the equitable representation of all Sudanese people in the Service, which had also been removed pursuant to the 2015 amendments, was reinstated. In addition, a provision was added that requires the Service to submit reports and oral statements to the National Assembly (Parliament).

13. All grounds of discrimination expressly prohibited under the Covenant are set out in the Constitution. In addition to article 31 of the Constitution, cited in paragraph 12 above, article 7 (1) of the Constitution provides that citizenship shall be the basis for equal rights and duties for all Sudanese people. Article 31 (2) begins with the phrase "all persons are equal before the law" and concludes with the phrase "without discrimination". Complaints of discrimination in any form, which are exceedingly rare, can be addressed effectively and independently through existing institutions and mechanisms. Those institutions and mechanisms include the civil, criminal and administrative courts and the Constitutional Court, the National Human Rights Commission, the Public Grievances Board (Ombudsperson), the Civil Service Tribunal, the National Council for Persons with Disabilities, the National Council for Child Welfare and the Unit for Combating Violence against Women.

14. As at the time of writing, no cases or convictions under article 148 of the Criminal Code (sodomy) had been filed with either the courts or the Public Prosecutor during the reporting period. The Covenant does not expressly mention this practice as a human right to be protected and promoted. Moreover, the Vienna Declaration and Programme of Action provides for respect of national and regional particularities and various historical, cultural and religious backgrounds, a principle reaffirmed in the Human Rights Council resolution adopted on 9 October 2012 at the Council's twenty-first session.[8] We emphasize that the Constitution and national law prohibit the violation of individual privacy, and that, with regard to offences relating to public morality and decency, the legal system will become involved only in the event that a criminalized act is perpetrated in public, or on the basis of a complaint lodged by the aggrieved party or victim or any other persons affected by the act in question.

Gender equality, violence against women and harmful traditions (arts. 2, 3, 6, 7, 17, 23, 24, 25 and 26)

15. The Personal Status Code for Muslims (1991), derived from Islamic sharia law, applies to Muslims and guarantees women a range of fundamental rights. With respect to marriage, article 12 of the Code stipulates that consent is one of the pillars of marriage, and article 13 stipulates that in order for a marriage to be valid, both spouses must be willing, while article 14 sets out the conditions to determine whether consent is genuine. The Code governs the exercise of the right to divorce. A woman has the right to request a divorce in the event that her husband has a defect or illness, is impotent, has caused her harm, has failed to pay maintenance or has abandoned her. The spouses may decide to terminate the marriage contract in accordance with article 143 of the Code. With regard to inheritance, the Code stipulates that the wife has the right to inherit her husband's estate provided that the marriage was still extant or that the wife's *'iddah* had not elapsed.

16. Polygamy is a personal matter governed by conditions established under Islamic law, including the ability to deal fairly with and pay maintenance for more than one wife. The

[8] 21/3 Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind: best practices.

first wife has the right to petition a court for divorce if she is adversely affected by the second marriage. Moreover, polygamy is not prohibited under the Covenant. The Personal Status Code stipulates that women shall be granted custody of the child, taking into account his or her best interest. The Code also favours women by enshrining certain rights, as stipulated in article 72 on the right to spousal support and article 80 on the breastfeeding allowance. It should be noted that legislation is being amended and that a committee has been formed, headed by the Minister of Social Security and Development, to review the standing of women in domestic legislation. To date, 26 laws have been reviewed, including the Personal Status Code. Shortcomings in the Code have been identified; among the observations and recommendations made, attention was drawn to the need to amend the articles of the Code that pertain to child custody.

17. The committee mentioned in paragraph 16 above recommended that articles 40 of the Personal Status Code (1991) be amended in order to bring it into line with the Interim Constitution and the obligations of the Sudan under the international instruments that it has ratified. Numerous events have been organized and consultations held to raise awareness and consult on the need to amend that article, as well as other articles of the Code. The most recent event, a workshop on interpreting the Personal Status Code (1991), was organized by the National Assembly (Parliament), the Legislation, Justice and Human Rights Committee and the Committee on Social Affairs of the National Assembly, in conjunction with the Ministry of Social Security and Development and the United Nations Population Fund. Workshop participants discussed the reform of legislation pertaining to women, initiatives on family planning and setting the age of marriage, among other issues. The workshop yielded a number of recommendations, which included setting the minimum age of marriage for women at 18 years of age and amending the provisions of the Personal Status Code pertaining to such issues as divorce, spousal support and freedom of movement. Article 40 does not stipulate that a young girl can be married through the courts "if the marriage is justified", as is stated in paragraph 7 (b) of the list of issues. Rather, it provides that there must be a prevailing benefit to the marriage that has due regard for the benefit of the girl. The fundamental position is that young girls may not marry except in cases of urgent need, as determined by the court.

18. We wish to note that the courts have handed down several rulings annulling marriages involving girls. The most recent ruling was delivered by the personal status court in Shajarah, south of Khartoum, on 22 July 2018, dissolving the marriage of a young girl named Rahmah to a man in his forties. The court ordered that the official who performed the marriage be investigated, that the man keep away from the young girl and that her father sign a pledge to provide her with proper care.

19. Although the Sudan has taken note of the recommendation, made under the universal periodic review mechanism in May 2016, that it accede to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), it has accepted the recommendation to "consider" acceding to the Convention. A plan has been put in place with a view to considering ratification of the Convention. The Government has conducted technical studies and held workshops with relevant actors and civil society organizations in order to facilitate consultation and advocacy across all sectors of society. Those activities are ongoing.

20. With regard to female genital mutilation, the Cabinet has approved the proposed amendment to the Criminal Code, adding a new article that criminalizes and punishes female genital mutilation. The amendment was submitted to the National Assembly, which approved it article by article. It should be noted that seven of the country's States have adopted local legislation prohibiting and punishing the practice. The Government is implementing the national strategy for the elimination of FGM (2008–2018) at the federal and State levels in the core areas of health, education, media, law, religion, information and social affairs, in conjunction with ministries, governmental institutions, states and formal partners, including civil society organizations, community sectors and legislative institutions. At the religious level, the Fatwa Council issued a fatwa prohibiting infibulation, which is the most extreme type of FGM.

21. With regard to the alleged rape of a 16-year-old girl and a woman by a Government-allied militia gang in Neriti, Central Darfur State, upon consulting the Special Court for

Darfur and the Office of the Public Prosecutor and reviewing police records in the region, no report of such an incident was found. The allegations concerning the rape of more than 200 women in the village of Thabit in October 2014 have been conclusively demonstrated to be mendacious. Three fact-finding teams dispatched by the Government conducted the investigation, along with the National Human Rights Commission. According to an African Union-United Nations Hybrid Operation in Darfur (UNAMID) statement issued on 10 November 2014, after listening to long hours of testimony from village leaders, students and women, the fact-finding team that visited the village of Thabit in North Darfur State found no evidence or signs indicating that a mass rape had been perpetrated in the town. The United Nations Security Council has been briefed on the matter.

22. Amendments made to the Criminal Code in 2015 included a new interpretation of the crime of rape; although the new provision does not explicitly use the expression "marital rape", it applies to rape perpetrated by a husband against his wife. The ambiguity of the abrogated text, with its implied connection between adultery and rape, has thereby been eliminated. As for cases of rape, the fear of stigma that deters women from reporting them is a factor in the culture of a very small number of communities. The Government's arduous efforts to raise awareness in these communities have brought about a discernible shift in that mentality. It is not true that victims who report being raped are accused of adultery, even if the alleged rape proves impossible to verify. In order to address domestic violence, the Government has established specialized courts, a specialized public prosecutor and special police units. According to a 2015 report on crime statistics, the number of complaints of rape stood at 584 nationwide, down by 6.4 per cent from the previous year's total. The highest proportion of rapes was reported in Northern Kordofan State (15.4 per cent), followed by Khartoum State (14.3 per cent).

23. Victims of violence receive medical assistance. A clinical protocol has been adopted for victims of rape, specifying the medical and legal procedures that are to be followed and the legal assistance that is to be provided to victims upon request. The Government has embarked on an initiative to establish specialized centres, starting with the establishment of an integrated centre for inpatient care for women in Fasher, in North Darfur State. The centre will provide holistic medical, psychological and legal services in an integrated manner. Since 2009, experts have been conducting research studies to determine the root causes of domestic violence. The most recent study, conducted in 2018, covered the topic of facilitating women's access to justice in the Darfur States.

Voluntary termination of pregnancy and reproductive rights (arts. 2, 3, 6, 7, 17 and 26)

24. There is currently no inclination to review legislation on voluntary termination of pregnancy. No cases have been brought by activists or civil society organizations in that regard. The two situations in which a pregnancy may be terminated by abortion — namely, if the fetus poses a risk to the mother's health or if the pregnancy is the result of rape — are considered to satisfy the requirements of justice and good conscience.

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6 and 7)

25. Since declaring a unilateral ceasefire in the conflict areas, the Government of the Sudan has extended the ceasefire every six months, most recently on 10 July 2018. The Government will endeavour to extend the ceasefire until there is a definitive cessation of hostilities and the parties reach a comprehensive peace agreement. Allegations that Sudanese government forces utilized poisonous smoke in the course of attacks in Jebel Marra between January and September 2016 were fabricated and have been disproved by UNAMID and representatives of the embassies of certain Western States in Khartoum, who were allowed to visit the area. With regard to measures taken to ensure that State forces do not perpetrate human rights violations, the Sudanese armed forces are governed by the Armed Forces Act, an entire chapter of which covers war crimes, crimes against humanity and criminal law. The armed forces and the Red Cross have concluded a series of memorandums of understanding, the most recent of which expires in December 2018 and is renewable for another three years. Under the memorandum:

- Training curricula on the law of armed conflict have been developed;
- The law of armed conflict was integrated into the training curricula of educational institutions and into articles 150 and 160 of the Armed Forces Act (2007);
- Over 3,000 officers and other members of the armed forces have received training on the law of armed conflict;
- Military personnel have received training on the law of armed conflict at the Institute of International Humanitarian Law in San Remo;
- Rules of engagement that are consistent with international standards and are binding on all leaders and individuals during operations have been formulated;
- The rules of the law of armed conflict have been incorporated into orders to engage in hostilities;
- Various means and mechanisms have been deployed to strengthen the protection of the human person, such as the legal order concerning operations.

26. As regards the killing of Mohamed al-Sadig, clashes took place on 27 April 2016 between students belonging to the Nuba Mountains League and others belonging to the National Congress at Omdurman Ahlia University. Students belonging to the Nuba Mountains League began attacking with machetes and knives, causing injuries and fractures among the students belonging to the other group. Events escalated, leading to the injury of Mohamed al-Sadig, who died after being taken to Omdurman Hospital. The police arrived, broke up the clashes between students and evacuated the university. On 27 April, Case No. 687 pursuant to article 130 of the Criminal Code (1991) was opened at the Omdurman precinct. A number of student suspects were arrested and are being investigated in connection with the case.

27. There is no inclination towards the complete abolition of the death penalty. However, it is a hallmark of the national justice system that the death penalty is limited to the most serious crimes and that every guarantee of fair trial and due process is provided. The death sentences handed down in 2016 and 2017, by gender, sex, age and nationality, were as follows:

Sentence	*2016*	*2017*
Sentences under review (to be upheld, appealed, challenged or overturned)	84	179
Sentences commuted from the death penalty to other sentences	23	21
Pardoned (punishment waived)	56	22
Not guilty verdict	3	6
Case in which the death penalty was carried out	62	9
Sentences rescinded or sent back to the lower court for retrial	24	26
Individuals who died of natural causes while in prison	3	2
Total	**255**	**265**

Breakdown by gender

Male	*Female*
2016	
251	4
2017	
259	6

Breakdown by age

18–24	*25–34*	*35–44*	*44 and over*
2016			
112	105	43	25
2017			
102	98	41	24

28. Nine foreigners were sentenced to death in 2016 and 16 in 2017.

29. A bill amending the Criminal Code is currently before the National Assembly. It includes a comprehensive definition of torture and provides stronger penalties than the current text, in view of the gravity of the criminalized act. The Sudan has committed to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the context of the second cycle of the universal periodic review mechanism. Studies of the Convention are on the verge of completion in preparation for the accession procedure.

Excessive use of force (arts. 6, 7, 9, 19, 21 and 22)

30. The tragic events of September 2013 began as ordinary demonstrations that degenerated into a riot, which soon turned into severe vandalism and violence. Hundreds of facilities and public and private properties were burned. The 84 victims have been listed by name, age, address and place of injury. An autopsy was performed on the corpses in order to determine the cause of death, and legal measures were taken accordingly. Criminal proceedings have been ongoing. A number of suspects, including policemen, have been arrested. Several cases have been fully investigated and referred to the courts. Most of the victims' guardians agreed to a settlement by which they would receive compensation. A committee has been established for that purpose, and 71 families of victims have received their compensation. The remaining families opted to continue with legal proceedings.

Liberty and security of the person and humane treatment of persons deprived of their liberty (arts. 7, 9, 10, 12, 14, 19, 21 and 22)

31. In accordance with the Criminal Code, arrests are made when it is suspected that a crime has been committed. In such cases, the proceedings set forth in the Code of Criminal Procedure (1991) are applied. Arrests can be made under the National Security Act (2010) if the arrested person has performed, or is suspected of having performed, an act that endangers national security and public safety. In such cases, they are afforded the rights guaranteed to detainees and arrested persons under article 51 of the National Security Act. For instance, they are informed of the reason for their arrest; they have the right to inform their family and contact a lawyer; they have a right to be treated in a manner that preserves their human dignity; and they may not be harmed. Article 51 also requires the competent public prosecutor to continuously inspect places of detention in order to confirm that detention requirements are being met. The arrested person enjoys the rights enshrined in article 16 (c) of the Constitutional Court Act (2005), by which the court may order any party to bring before it any arrested person or detainee with a view to ensuring that the imprisonment or detention is consistent with the Constitution.

32. Information regarding the capacity of Sudanese prisons is set out in the following table:

No.	*Unit*	*Capacity*	*Actual occupancy*
1	Khartoum North National Prison	500	1 005
2	Shala National Prison — North Darfur	650	900
3	Port Sudan National Prison	500	825

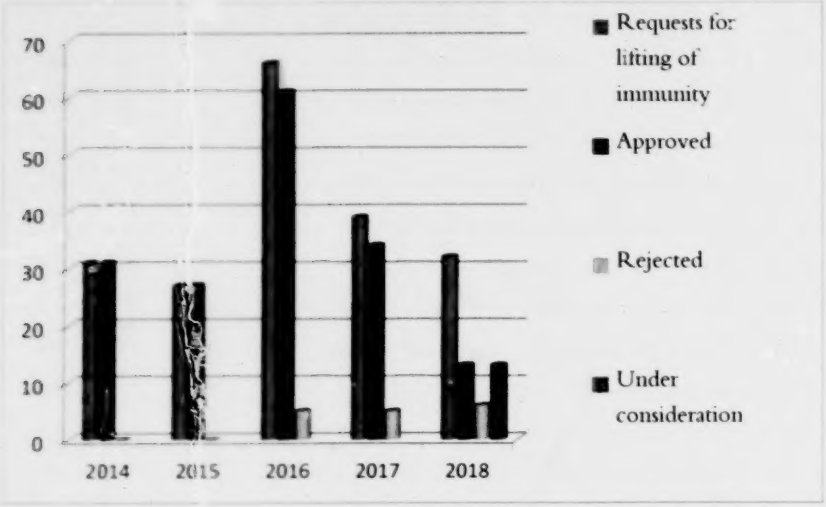
No.	*Unit*	*Capacity*	*Actual occupancy*
4	National Prison — Sawakin — eastern Sudan	550	132
5	Khartoum State prisons and correctional facilities	2 500	3 315
6	Gezira State prisons and correctional facilities	950	1 415
7	White Nile State prisons and correctional facilities	450	1 203
8	Blue Nile State prisons and correctional facilities	150	338
9	Kassala State prisons and correctional facilities	600	882
10	Sennar State prisons and correctional facilities	435	837
11	Gedaref State prisons and correctional facilities	500	716
12	Red Sea State prisons and correctional facilities	350	239
13	Northern State prisons and correctional facilities	350	252
14	Nile State prisons and correctional facilities	270	755
15	North Kordofan State prisons and correctional facilities	1 325	1 556
16	South Kordofan State prisons and correctional facilities	850	544
17	West Kordofan State prisons and correctional facilities	750	796
18	North Darfur State prisons and correctional facilities	820	346
19	West Darfur State prisons and correctional facilities	250	379
20	South Darfur State prisons and correctional facilities	450	1 137
21	Central Darfur State prisons and correctional facilities	250	243
22	East Darfur State prisons and correctional facilities	150	430
23	Al-Huda Correctional City, Omdurman	9 500	5 663

33. The most significant measures taken to address overcrowding and improve prison conditions consist of a Government policy to establish a number of new correctional cities, which have almost been completed. The cities are being built in tandem with reform programmes and are intended to address overcrowding in prisons and to respect the human rights enshrined in international conventions with regard to inmates and their human dignity. The policy follows the model of Al-Huda Correctional City in Omdurman, which is based on the latest penal and correctional methodologies. These seek to rehabilitate inmates, ensure their human dignity and safeguard their human rights so that they can be integrated into society. As shown in the table above, Al-Huda Correctional City currently holds no more than 59 per cent of its total capacity. Effective work has begun on the establishment of four correctional cities, respectively in White Nile State, in southern Sudan; Gedaref, in eastern Sudan; the Soba suburb of Khartoum; and South Darfur, in the west of the country.

Administration of justice and immunity for State agents (arts. 2, 6, 7, 14 and 26)

34. The immunity referred to in paragraph 21 of the list of issues is solely procedural immunity. As we explained in the national report, it is connected with acts that may occur in the fulfilment of official professional duties. Procedures to lift immunity from members of those agencies who are suspected of committing a crime are easy and simplified. In order to facilitate the proceedings, the Police Act (2008) has recently been amended in order to transfer the power to lift immunity from the Minister of the Interior to the Director-General of Police. In 2017, immunity was lifted from members of the police force in 35 cases, from a total of 45 requests for the lifting of immunity. As regards the security forces, 27 requests were made in 2015, and all of them were approved. In 2016, 66 requests were made and 61 approved. Five cases were tried by the Service's court. In 2017, 39 requests were submitted,

34 were approved and 5 were tried by the Service. From January to June 2018, 32 requests were made, 13 were approved, 6 were rejected and 13 are under consideration. The table below sets out the requests for lifting of immunity that were made from 2014 to 2018.



35. The immunity of the Head of State from judicial prosecution is also procedural in nature. Under article 20 of the Privileges and Immunities of Holders of Constitutional Positions Act (2001), arresting, searching or undertaking any criminal proceedings against the President of the Republic would require the approval of half of the members of the National Assembly (Parliament).

Treatment of aliens, including refugees, asylum seekers and migrants, and population displacement (arts. 2, 6, 7, 9, 13 and 26)

36. The Asylum Act (2014) replaces the Asylum Act (1974). The new Act is comprehensive and flexible. It takes its terms of reference from the United Nations Convention relating to the Status of Refugees concluded at Geneva in 1951, the Protocol Relating to the Status of Refugees concluded at New York in January 1967, and the 1969 Organization of African Union Convention Governing the Specific Aspects of Refugee Problems in Africa. Article 28 of the Act provides as follows: "Before their application has been considered, asylum seekers may not be subjected to measures such as refoulement or return that would force them to return to or stay in a place where his life, physical safety or freedom would be endangered". As regards the procedure for the termination of asylum seeker status, the cessation of that status is governed by article 6 of the Act. No refugees have been expelled or deported from the Sudan during the period specified in the list of issues. Contrary to what is stated in the list of issues, no minor refugees have been deported. Deportation usually takes place when illegal migrants contravene the provisions of article 33 of the Passports and Migration Act (1994).

37. From January to June 2018, 118 people were deported for having entered the country illegally (62 were Ethiopian, 29 Somali and 2 Eritrean; 25 had other nationalities). Thirteen people are facing deportation. One is Ethiopian, four are Eritrean, three are Bangladeshi, and one each is from Syria, Palestine, Somalia and Libya. 56 people have appealed against deportation; 54 are Eritrean, one is from Palestine and one from South Sudan. 481 foreigners have been detained and are being prosecuted under the Passports and Migration Act (1994) for having entered the Sudan illegally; 16 are Somali, 104 Ethiopian and 361 Eritrean.

38. With regard to the events in the Kalma camp in South Darfur State, some members of armed movements, who were wearing civilian gear and carrying firearms, prevented displaced persons in the camp from going out to the hall where the President of the Republic and his delegation were due to appear in a previously announced event. The

displaced persons did not heed the threats of members of the armed movements. The latter opened fire and hit several of the displaced persons, five of whom died. The bodies were handed over to the relatives so that they could sign the official record of the investigation. It should be noted that the Kalma camp is under the direct supervision of UNAMID police, which provides security.

39. Internationally recognized humanitarian indicators show that the humanitarian situation in conflict areas in the country, including Darfur, is stable. The figures for food security and health are normal. There have been no recorded epidemics in camps for displaced persons. Coverage with regard to the delivery of and access to humanitarian assistance varies between 95 and 98 per cent. The humanitarian assistance coordination mechanisms established by the Government are in themselves a testament to the scale of its commitment and efforts. The most important of those mechanisms include the following: the High-level Committee for Humanitarian Assistance, which is chaired by the Vice-President of the Republic; the Joint Coordinating Committee comprising the Government, the United Nations and voluntary organizations; and the joint committee to follow up approaches and procedures for humanitarian action.

Trafficking in persons (art. 8)

40. People smuggling and human trafficking across the country's eastern border have continued to varying degrees. The Government has made the utmost efforts to combat that trend, given the resources at its disposal, and has done everything it can to protect the victims. The international community has not focused sufficiently on helping the Sudan to address the trend[9].

Freedom of expression, peaceful assembly and association (arts. 19, 21, 22 and 25)

41. With regard to the confiscation of editions of certain newspapers, the newspapers in question failed to comply with the duties and responsibilities set forth in article 19, paragraph 3 (a) and (b) of the Covenant. It was therefore necessary to enforce the law against them. The competent authorities' action against the newspapers by the competent authorities amounted to enforcing the restrictions enshrined in the law, as permitted by article 19. In that connection, we wish to highlight decision No. *mim dal qaf dal* 272/2015, which states the closure of the daily newspaper *Al-Tayar* was unconstitutional and vacates the order issued by the National Intelligence and Security Service of the Sudan to close *Al-Tayar*. A new law on the press is before Parliament as part of the ongoing legal reform process. With regard to the blacklist for travel abroad, the travel ban can be imposed only with a prior order from a court or the competent public prosecutor on the grounds that legal proceedings are in place against the individual in question. Administrative travel bans are imposed for reasons connected with migration violations. The penalty for rioting was increased because the amended penalties were not adequate to protect the security and property of civilians from the ongoing violence and vandalism.

42. Meetings of political parties, the conditions for their foundation and registration, restrictions on public meetings of opposition parties, and all relevant procedural issues are governed and regulated by the Political Parties Regulation Act (2007). Any party that does not comply with the provisions of the Act is subject to the legal proceedings set forth therein. On 18 January 2018, the Republican Party marked the anniversary of the execution of its founder, Mahmoud Mohamed Taha. The event took place at his widow's home in Neighbourhood 1 in the city of Omdurman — Al-Thawrah. The security authorities did not prevent the Party from meeting.

Freedom of religion and belief (art. 18)

43. As regards the destruction of churches and places of worship, in May 2017, the authorities of Aradi, Khartoum State, fulfilled their duties under the Urban Planning and Land Management Act (1994) and the Urban Development and Planning Strategy by removing structures that had been erected in violation of the law and regulations in the

[9] Annex I, which is attached hereto, gives statistics of reported cases of human trafficking in 2017.

Soba al-Aradi area of south Khartoum. The proceedings affected a number of shops, homes, schools and places of worship, including 16 mosques and prayer halls. Nobody has been arrested or prosecuted on the basis of being a Christian or having converted to another religion. The Czech national and others who were with him were tried and sentenced by the competent court on specific charges, none of which involved their religion. The trial was open, and every guarantee of a fair trial was provided. The President of the Republic subsequently granted them an amnesty.

44. The Bill of Rights, which is part of the Constitution and was revised and broadened as part of the constitutional amendments of 2017, guarantees freedom of religion and belief. The Criminal Code does not criminalize the mere fact of turning from the Islamic faith to another religion; rather, it criminalizes open proselytizing for that purpose in a manner that contravenes the law. There have been only four cases involving charges of apostasy. In none has there been a definitive conviction; in every case, the criminal charges were dismissed. The form of dress that is punishable by law consists of immodest attire that offends public decency, whether worn by a man or a woman. Contrary to what is stated in paragraph 28 of the list of issues, it does not consist of attire that does not conform to "Islamic dress codes".